



Advocis
390 Queens Quay West, Suite 209
Toronto, ON M5V 3A2
T 416.444.5251
1.800.563.5822
F 416.444.8031
www.advocis.ca

February 8, 2008

Mr. Mark Gallant
Registrar of Securities
Consumer, Corporate and Insurance Division
Office of the Attorney General
Fourth Floor, Shaw Building
95 Rochford Street
PO Box 2000
Charlottetown, PE
C1A 7N8

Dear Mr. Gallant:

Re. Section 158 of the Securities Act of PEI – Calls to Residences

Advocis, the Financial Advisors Association of Canada, would like to provide you with our comments on Section 158 of the new *Securities Act of Prince Edward Island* (P.E.I.) regarding calls to residences (cold call provision), which is scheduled to be proclaimed on March 17, 2008.

Advocis is a national professional association that is committed to preparing, promoting and protecting financial advisors in the public interest. We do this by providing a professional platform including career support, designations, best practices direction, education, timely information and professional liability insurance. This strengthens the relationship of trust and respect between financial advisors and their clients, the public, and government. Advocis is Canada's largest association of financial advisors, representing life and health insurance licensees, and mutual fund and securities registrants across the country for over a century.

It is our understanding that the intent of the cold call provision is to eliminate nuisance calls, especially from unqualified individuals or entities that are attempting to transact business by making unsolicited calls using so-called "boiler plate tactics." We would agree that such a provision is consistent with the stated objective of the new legislation to enact improved enforcement and investor protection provisions.

Notwithstanding, we are concerned that Section 158 of the new *Securities Act* is excessively restrictive, as it captures virtually anyone in the province wishing to contact a residence within or outside of the province for the purpose of trading in any security or in any class of securities.

Despite the exemptions outlined in subsection 158(2) with respect to contacting personal friends, a business associate or a client with whom or on whose behalf the person calling has been in the habit of trading in securities, we believe that the provision, as drafted, could

negatively impact legitimate, registered individuals or businesses under the *Securities Act* from effectively conducting business and meeting the needs of consumers in the securities marketplace. The outright prohibition of calls outside of the above noted exemptions could potentially constitute a significant restraint of trade.

We would therefore urge the Province to consider possible alternatives that would alleviate any unnecessary constraints. One such option could be the introduction of a rule exempting from subsection 158(1) those individuals and entities that are currently registered under the *Securities Act* to trade in securities. Specifically, we would encourage the Office of the Attorney General to consider issuing an exemption order. The impact of the order would be to eliminate the application of section 158(2) to a dealer registered in P.E.I or to an individual registered to trade securities on behalf of a registered dealer.

It is our belief that this approach would be appropriate from a public policy standpoint and would not be prejudicial to the public interest, since securities registrants are already subject to a stringent regulatory regime overseeing financial services participants. Mutual fund and securities registrants are subject to all of the laws and regulations that protect consumer from unfair and deceptive practices with a duty to act honestly and in good faith, among other consumer protection provisions. We suggest a similar approach be applied to exempt not only securities registrants but also life and health insurance licensees that must be licensed with the Consumer, Corporate and Insurance Division of the Office of the Attorney General, and abide by the provisions within the *Insurance Act*.

Furthermore, granting such an exemption order would not be unique to the Province of P.E.I. The New Brunswick Securities Commission has issued an exemption order (*Order 33-105 – Calls to Residences by Registrants – Cold Calling*) in relation to section 57 of the *New Brunswick Securities Act*, which is a virtually identical cold call provision to that introduced under the new *Securities Act* of P.E.I.

The issuance of a rule exempting securities registrants from the application of the provision would provide the appropriate relief to those individuals and entities that are trading in securities and will enable them to conduct their businesses in an efficient manner, while keeping intact all other consumer protection measures. We would be pleased to discuss our concerns and our suggested solution with you. Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Tzanetakis". The signature is stylized and cursive.

Peter Tzanetakis
Senior Director, Regulatory Affairs